

REMARKS

Claims 1, 2, 5-9, 11-14 and 36-42 are pending in the present application. In the above amendments, claims 14 and 41 have been amended.

Applicants respectfully respond to this Office Action.

Allowable Subject Matter

Claims 1, 2, 5-9, 11-14 and 36-40 were allowed. Applicants express appreciation for allowance of these claims. Allowed claim 14 was amended to insert an inadvertently omitted "means for" at the beginning of a paragraph, and to delete an inadvertently inserted "and" at the end of the paragraph. The amendment to claim 14 is not intended to change the scope of the claim.

Claim Rejections – 35 USC § 101

Claims 41-42 were rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. The Examiner stated that a "processor associated product is not defined by the specification and reads on carrier waves and other products that are not tangible." See, Office Action, page 2, item 1.

Claim 41, as amended, recites a "processor associated product, comprising: **processor-readable medium, storing: software code** for causing a processor to . . ." Applicants assert that processor-readable medium storing software code is patentable subject matter. "[A] claimed **computer-readable medium encoded with a computer program** is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and **is thus statutory.**" See, MPEP 2106.01 I. (Emphasis added). Applicants assert that, with respect to determining patentable subject matter, there is no substantive legal distinction between a computer-readable medium encoded with a computer program and a processor-readable medium storing software code.

The specification addresses the processor-readable medium as follows: “[t]he software codes may be stored in memory units (e.g., memory units 812, 822, and 842 in FIG. 8) and executed by processors (e.g., controllers 810, 820, and 840 and processor 832).” See, page 15, paragraph [1070]. Applicants assert that the disclosed memory units are tangible items, and therefore, the corresponding processor-readable medium is likewise tangible.

The Examiner asserts that claim 41 may read on “carrier waves and other products that are not tangible.” In response, Applicants have added “storing” to claim 41, and asserts that a processor-readable medium storing software codes does not read on carrier waves or other signals that are not tangible. “A transitory, propagating signal . . . cannot be patentable subject matter.” See, MPEP 2106.IV.B quoting In re Nuijten. Applicants assert that a transitory, propagating signal is not a medium storing software code because of the propagating signal’s transitory nature. Further, Applicants assert that only a tangible manufacture or machine comprises a processor-readable medium storing software codes. Therefore, because a manufacture or machine is statutory subject matter, Applicants assert that claim 41 is directed to statutory subject matter and should be allowed.

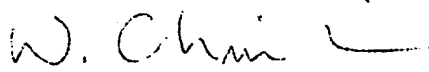
It is respectfully submitted that dependent claim 42 is at least allowable for the reasons given above in relation to independent claim 41.

REQUEST FOR ALLOWANCE

In view of the foregoing, Applicants submit that all pending claims in the application are patentable. Accordingly, reconsideration and allowance of this application are earnestly solicited. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Respectfully submitted,

Dated: July 10, 2009

By: 
Won Tae C. Kim, Reg. # 40,457
(858) 651 - 6295

QUALCOMM Incorporated
5775 Morehouse Drive
San Diego, California 92121
Telephone: (858) 658-5787
Facsimile: (858) 658-2502